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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,774	07/24/2003	Sean Cullinan	3822-003-27	7859
24510 7590 12/05/2008 DLA PIPER LLP (US) ATTN: PATENT GROUP 500 8th Street, NW WASHINGTON, DC 20004-2131				
EXAMINER BEHARRY, NOEL R				
ART UNIT 2446		PAPER NUMBER		
MAIL DATE 12/05/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/625,774

Applicant(s)

CULLINAN ET AL.

Examiner

NOEL BEHARRY

Art Unit

2446

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-18 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-15 and 22-26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-6, 16-18, 20-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to applicant's response filed under 37 C.F.R. §1.111 in response to a non-final office action. Claims 1, 6-7, 9-10, 12, 16, 20-22, and 25 have been amended and claim 4 and 19 have been canceled. Claims 1-3, 5-18 and 20-26 are subject to examination.

2. Acknowledgment is made to applicant's amendment to the drawing to obviate previous objection to the drawings. Previously raised objection to the drawings is hereby withdrawn.

3. Acknowledgment is made to applicant's amendment to claims 16, 21-22, and 25 to include "a computer program product comprising a physical computer usable medium", to obviate previous 101 rejections. Previously raised 101 rejections to claims 16-26 are hereby withdrawn.

Allowable Subject Matter

4. Claims 7 (8-9 by virtual dependency), 10 (11 by virtual dependency), 12 (13-15 by virtual dependency), 22 (23-24 by virtual dependency), and 25 (26 by virtual dependency) are allowed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 5, 16-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni et al (US 6,014,694) (Aharoni hereafter), in view of Milkey et al (US 2005/0273514) (Milkey hereafter), and further in view of Krebs (US 5,557,320).

Regarding claim 1, Aharoni teaches,

determining a bandwidth value for transmitting said media object over the communications network; (Col 19, Line 52)

wherein a user may base the selection of one of said plurality of bit rates, received as said second input, on said cost value (the sender utilizes the bandwidth measurements to determine the appropriate video quality level to send over the connection, Col 8, Line 10-12);

calculating a plurality of encoding time values (To transmit...would take approximately 22 hours, Col 1, Line 35-39), each reflective of the time to encode said media object using one of a plurality of resolution (resolution of 640x480) and frame rate (30fps) combinations; (Col 1, Line 35-39)

calculating a plurality of bit rates (Levels), each corresponding to one of said plurality of said bandwidth; (Col 12, Line 3-6, Line 42-51)

and receiving a second input indicative of a selection of one of said plurality of bit rates (levels), wherein said media object (packets) is transmitted over the communications network (network connection) using one of said plurality of resolution and frame rate combinations (level of video transmission quality) corresponding to said selected bit rate (level) (Col 8, Line 2-6).

Aharoni fails to teach,

determining a play duration value for a media object to be transmitted over the communications network;

determining a cost value associated with said bandwidth value.

receiving a first input indicative on a deadline time value in which said media object must be transmitted over the communications network;

However, Milkey teaches,

determining a cost value associated with said bandwidth value (the cost of the available bandwidth, Par. 0042)

receiving a first input indicative on a deadline time value in which said media object must be transmitted over the communications network (714 of Fig. 7).

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of Aharoni to include determining a cost value associated with the bandwidth value and receiving a deadline value as taught by

Milkey in order to be able to further adjust the compression ratio so that the media may be transmitted by a deadline time.

The modified Aharoni – Milkey fails to teach,
determining a play duration value for a media object to be transmitted over the communications network;

However, Krebs teaches,
determining a play duration value for a media object to be transmitted over the communications network; (1 of Fig. 4)

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of the modified Aharoni – Milkey to include determining a play duration value as taught by Krebs in order to be able to efficiently transmit the media over the network given the limited time and bandwidth.

Regarding claim 2,

wherein said bandwidth value is determined by querying a network adaptor located within the processing device. (Milkey; Par. 0042, Line 8-16)

Regarding claim 5,

receiving at least a third input indicative of metadata associated with said media object; (Milkey; metadata are attached to files, Par. 0027, Line 12-14) and

linking said metadata with said media object (files), wherein said metadata is transmitted with said media object over the communications network. (Milkey; Par. 0027, Line 10-14)

Regarding claim 16, this claim is substantially the same as claim 1; same rationale of rejection is applicable.

Regarding claim 17, this claim is substantially the same as claim 2; same rationale of rejection is applicable.

Regarding claim 20, this claim is substantially the same as claims 5; same rationale of rejection is applicable.

7. Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni – Milkey – Krebs in view of King et al. (US 6,477,707) (King hereafter).

Regarding claim 3, Aharoni – Milkey – Krebs fails to teach,

wherein said bandwidth value is determined by receiving a third input from a user via a graphical user interface on the processing device.

However, King teaches

wherein said bandwidth value is determined by receiving a third input from a user via a graphical user interface on the processing device (Col 16, claim 9).

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of Aharoni – Milkey – Krebs to include receiving the

bandwidth value from a user via a graphical user interface as taught by King in order to allow a user to specify a bandwidth value via a GUI.

Regarding claim 18, this claim is substantially the same as claim 3; same rationale of rejection is applicable.

8. Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni – Milkey - Krebs in view of NPL: Using Turbine Video Encoder (Turbine hereafter) (cited in previous office action).

Regarding claim 6, this claim is substantially the same as claim 1; same rationale of rejection is applicable. Further limitations include:

Aharoni – Milkey – Krebs fails to teach,
sorting said plurality of bit rates according to quality;
presenting a subset of said plurality of bit rates in sorted order to a user; and
receiving said second input from said user indicative of a selection of one of said subset of said plurality of bit rates.

However, Turbine teaches on page 5 (picture), where a user has a selection of quality via a graphical user interface. The graphical user interface has sliders for adjusting quality and frame rate and a drop down menu for selecting bit rate limit. Turbine further teaches that the sliders indicate a percentage sorted in order from worst quality to best quality. It is clear that by adjusting the quality settings of video to

encode that the bit rates are being adjusted and selected according to the quality chosen.

It would have been obvious to one of ordinary skill in the art at the time of the invention to create the invention of Aharoni – Milkey – Krebs to include presenting a plurality of bit rates to a user as taught by Turbine in order to choose between quality versus size of the movie.

Regarding claim 21, this claim is substantially the same as claims 6; same rationale of rejection is applicable.

Conclusion

Examiner's Note: Examiner has pointed out particular reference contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and Figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOEL BEHARRY whose telephone number is (571)270-5630. The examiner can normally be reached on M-T 10-2.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. B./
Examiner, Art Unit 2446

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2446